

1-1 By: Workman (Senate Sponsor - Burton) H.B. No. 1396  
1-2 (In the Senate - Received from the House May 14, 2015;  
1-3 May 15, 2015, read first time and referred to Committee on Criminal  
1-4 Justice; May 22, 2015, reported favorably by the following vote:  
1-5 Yeas 6, Nays 1; May 22, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9		X		
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED  
1-16 AN ACT

1-17 relating to the construction of certain statutes and rules that  
1-18 create or define criminal offenses and penalties and a review of  
1-19 certain penal laws of this state.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Subchapter C, Chapter 311, Government Code, is  
1-22 amended by adding Section 311.035 to read as follows:

1-23 Sec. 311.035. CONSTRUCTION OF STATUTE OR RULE INVOLVING  
1-24 CRIMINAL OFFENSE OR PENALTY. (a) In this section, "actor" and  
1-25 "element of offense" have the meanings assigned by Section 1.07,  
1-26 Penal Code.

1-27 (b) Except as provided by Subsection (c), a statute or rule  
1-28 that creates or defines a criminal offense or penalty shall be  
1-29 construed in favor of the actor if any part of the statute or rule is  
1-30 ambiguous on its face or as applied to the case, including:

- 1-31 (1) an element of offense; or  
1-32 (2) the penalty to be imposed.

1-33 (c) Subsection (b) does not apply to a criminal offense or  
1-34 penalty under the Penal Code or under the Texas Controlled  
1-35 Substances Act.

1-36 (d) The ambiguity of a part of a statute or rule to which  
1-37 this section applies is a matter of law to be resolved by the judge.

1-38 SECTION 2. (a) A commission is created to study and review  
1-39 all penal laws of this state other than criminal offenses:

- 1-40 (1) under the Penal Code;  
1-41 (2) under Chapter 481, Health and Safety Code; or  
1-42 (3) related to the operation of a motor vehicle.

1-43 (b) The commission shall:

1-44 (1) evaluate all laws described by Subsection (a) of  
1-45 this section; and

1-46 (2) make recommendations to the legislature regarding  
1-47 the repeal of laws that are identified as being unnecessary,  
1-48 unclear, duplicative, overly broad, or otherwise insufficient to  
1-49 serve the intended purpose of the law.

1-50 (c) The commission is composed of nine members appointed as  
1-51 follows:

- 1-52 (1) two members appointed by the governor;  
1-53 (2) two members appointed by the lieutenant governor;  
1-54 (3) two members appointed by the speaker of the house  
1-55 of representatives;

1-56 (4) two members appointed by the chief justice of the  
1-57 Supreme Court of Texas; and

1-58 (5) one member appointed by the presiding judge of the  
1-59 Texas Court of Criminal Appeals.

1-60 (d) The officials making appointments to the commission  
1-61 under Subsection (c) of this section shall ensure that the

2-1 membership of the commission includes representatives of all areas  
2-2 of the criminal justice system, including prosecutors, defense  
2-3 attorneys, judges, legal scholars, and relevant business  
2-4 interests.

2-5 (e) The governor shall designate one member of the  
2-6 commission to serve as the presiding officer of the commission.

2-7 (f) A member of the commission is not entitled to  
2-8 compensation or reimbursement of expenses.

2-9 (g) The commission shall meet at the call of the presiding  
2-10 officer.

2-11 (h) Not later than November 1, 2016, the commission shall  
2-12 report the commission's findings and recommendations to the  
2-13 governor, the lieutenant governor, the speaker of the house of  
2-14 representatives, the Supreme Court of Texas, the Texas Court of  
2-15 Criminal Appeals, and the standing committees of the house of  
2-16 representatives and the senate with primary jurisdiction over  
2-17 criminal justice. The commission shall include in its  
2-18 recommendations any specific statutes that the commission  
2-19 recommends revising or repealing.

2-20 (i) Not later than November 1, 2015, the governor, the  
2-21 lieutenant governor, the speaker of the house of representatives,  
2-22 the chief justice of the Supreme Court of Texas, and the presiding  
2-23 judge of the Texas Court of Criminal Appeals shall appoint the  
2-24 members of the commission created under this section.

2-25 (j) The commission is abolished and this section expires  
2-26 December 31, 2016.

2-27 SECTION 3. The change in law made by this Act applies only  
2-28 to a criminal proceeding that commences on or after the effective  
2-29 date of this Act. A criminal proceeding that commences before the  
2-30 effective date of this Act is governed by the law in effect on the  
2-31 date the proceeding commenced, and the former law is continued in  
2-32 effect for that purpose.

2-33 SECTION 4. This Act takes effect September 1, 2015.

2-34

\* \* \* \* \*